

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2753 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 NO

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RAMJIBHAI KALUBHAI CHOUDHARY

Versus

STATE OF GUJARAT

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Appearance:

MR SAURIN A SHAH for Petitioner

MR KT DAVE APP for Respondent No. 1

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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 29/07/98

ORAL JUDGEMENT

RULE. Service of Rule is waived by learned A.P.P.

Shri K.T.Dave for the Respondent.

2. By virtue of this application, the petitioner has prayed that M.Case No.3/98 filed in Dharampur Police Station be quashed and set aside.

3. An application under Section 97 of the Cr.PC was filed by Shri Laljibhai Devjibhai Ganvit in the Court of the Judicial Magistrate, First Class at Dharampur. In the said application, the learned Magistrate had passed an order on 18.3.1998 directing the Police Sub Inspector, Dharampur to produce Bai Savita in the court of the Judicial Magistrate, First Class at Dharampur on 19.3.1998 at 1500 hours. Upon getting intimation of the said order, Dharampur Police Station had recorded the said intimation as M.Case No.3/98 though, in fact, no FIR was filed by Shri Laljibhai Devajibhai Ganvit before the said Police Station and, in the said FIR, it was stated that the present petitioner and others had committed the offences punishable under Sections 363, 342 and 376 of the Indian Penal Code.

4. Looking to the developments in the matter, it is not necessary to deal with all the averments made in the FIR and even the memo of application because, during the pendency of this application, custody of Bai Savita has already been taken by the applicant - Laljibhai Devajibhai Ganvit who had submitted an application under Section 97 of the Cr.PC for search warrant before the Judicial Magistrate, First Class at Dharampur. In this view of the matter, as the purpose of applicant Laljibhai Devajibhai Ganvit has been served, M.Case No.3/98 recorded by the Police Sub Inspector, Dharampur would not survive. It is not in dispute that, at present, custody of Bai Savita is with her father Laljibhai Devajibhai Ganvit.

5. In view of the above-referred developments, which have taken place during the pendency of this application, it would be just and proper for the Police Sub Inspector, Dharampur not to take any action in pursuance of M.Case No.3/98 and, in order to secure the ends of justice, it would be just and proper to quash said M.Case No.3/98.

6. In the circumstances, this application is allowed. M. Case No.3/98 filed in the Dharampur Police Station is hereby quashed. Rule is made absolute.

Sd/-

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[KMG Thilake]